

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BAC HOME LOANS SERVICING LP,

Plaintiff,

v.

FALL OAKS FARM LLC, et al.,

Defendants.

Case No. 2:11-cv-274

JUDGE GREGORY L. FROST

Magistrate Judge Terence P. Kemp

ORDER

This matter is before the Court for consideration of the following filings: (1) a January 14, 2016 combined motion for leave to file an amended answer, affirmative defense, and counterclaims filed by Defendant James Moder (ECF No. 199); (2) a January 15, 2016 motion to stay order of confirmation of sale filed by Moder (ECF No. 200), and (3) a January 21, 2016 motion for sanctions filed by Plaintiff Carrington Mortgage Services, LLC (“Carrington”) (ECF No. 202).

The Court has previously addressed multiple motions by Moder in which he has sought to reopen the pleading in this case in disregard for the developments in this litigation and the May 2, 2013 judgment entry of foreclosure. Once again, there is little point in repeating the rationale here for rejecting Moder’s request because time and again he has simply re-filed the same request recast as a new motion. For the reasons previously explained by this Court, the Court **DENIES** Moder’s combined motion for leave to file an amended answer, affirmative defense, and counterclaims. (ECF No. 199.)

Moder’s motion to stay order of confirmation of sale is different than many of his repeated filings in that he asserts in this motion irregularities in the administration of the

foreclosure sale. (ECF No. 200.) Carrington has not yet responded to this motion, but is still within the default briefing schedule established by S.D. Ohio Civ. R. 7.2(a)(2). Given the seriousness of the allegations, the Court is certain that Carrington is planning on filing a clarifying response. In order to expedite consideration of Moder's motion, the Court **ORDERS** that Carrington shall file its response to the motion on or before January 29, 2016, and that Moder shall file a reply memorandum on or before February 5, 2016. The Court sets a February 8, 2016 non-oral hearing on the motion. Carrington should address Moder's allegations with specificity. The special master may, but is not required to, file a notice addressing the allegations targeting his role in the administration of the foreclosure proceedings. Because this would involve exceptional work beyond the ordinary duties of the special master, he may apply to this Court for additional, exceptional fees for this work.

Finally, the Court declines to sanction Moder at this time. Carrington is correct that Moder has long engaged in a pattern of filing redundant and often wholly frivolous filings, raising arguments that this Court has rejected again and again. Because he is proceeding *pro se*, this Court has repeatedly given Moder considerable latitude in regard to his filings. But regardless of his *pro se* status, the Court is certain that Moder understands that repeatedly filing the same arguments again and again is improper. It evinces a disregard for the orders of this Court, for the applicable law, and for the consequences of his own actions. It is an abuse of the judicial process and system. Consequently, the Court is inclined to enjoin Moder from making any additional filings without first obtaining leave of court and providing a declaration or sworn affidavit indicating that a proposed filing would present a new issue, that the issue is not frivolous, and that raising the issue and filing the document would not be in bad faith.

Additional sanctions may also be warranted. At this time, however, the Court will not impose the sanctions or procedures that Carrington requests without giving Moder fair warning here of the probable consequences of his actions should he continue to engage in his frivolous filing.

The Court therefore **DENIES WITHOUT PREJUDICE** Carrington's motion for sanctions.

(ECF No. 202.) Should Moder continue to file frivolous documents, Carrington may re-file its motion and the Court will impose appropriate sanctions.

IT IS SO ORDERED.

/s/ Gregory L. Frost
GREGORY L. FROST
UNITED STATES DISTRICT JUDGE